

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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A.V.E.L.A., INC.,

Plaintiff,

v.

THE ESTATE OF MARILYN MONROE, LLC, *et al.*,

Defendants.  
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THE ESTATE OF MARILYN MONROE, LLC,

Counterclaimant,

v.

A.V.E.L.A., INC.,

Counter-Defendant,

LEO VALENCIA, IPL, INC.,  
X ONE X MOVIE ARCHIVES INC.,  
V. INTERNATIONAL FINE ARTS PUBLISHING,  
INC.,

Third-Party Defendants.  
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X ONE X MOVIE ARCHIVES INC.,  
V. INTERNATIONAL FINE ARTS PUBLISHING,  
INC.,

Counterclaimants,

v.

THE ESTATE OF MARILYN MONROE, LLC,  
AUTHENTIC BRANDS GROUP, LLC, JAMES  
SALTER.

Counter-Defendants.  
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12 Civ. 4828 (KPF)

**ORDER**

KATHERINE POLK FAILLA, District Judge:

On October 16, 2019, the Court held a telephone conference regarding the trial schedule in this matter. (Minute Entry of 10/16/19). Following that conference, the Court adjourned the trial, previously scheduled for November 2019, to January 13, 2020. (Dkt. #451). Following the adjournment, Duane Harley, counsel for A.V.E.L.A., Inc., Leo Valencia, IPL, Inc., and X One X Movie Archives Inc. (collectively the “AVELA Parties”), moved to withdraw. (Dkt. #452).

On October 23, 2019, the Court granted Mr. Harley’s motion to a certain extent. (Dkt. #455). The Court ordered that on or before November 19, 2019, the AVELA Parties either will either have: (i) worked out a payment plan with Mr. Harley, in which case the Court would deny Mr. Harley’s motion to withdraw; or (ii) found new counsel and have such counsel enter a notice of appearance on the record. (*Id.*). The Court cautioned the AVELA Parties that any new counsel would be required to represent, at the then-scheduled November 19, 2019 telephone conference, that such counsel would be prepared to go to trial on January 13, 2020. (*Id.*). The Court also explained that if Mr. Harley withdrew and the AVELA Parties had not retained new counsel by November 19, 2019, the Court would not move the trial for this reason and, therefore, Leo Valencia would proceed to trial *pro se*, and the Court would enter default judgments as to the corporate entities that comprise the AVELA Parties. (*Id.*).

In a November 14, 2019 order, the Court adjourned the November 19, 2019 telephone conference. (See Dkt. #456). However, the Court ordered that its prior order regarding Mr. Harley's motion to withdraw still remained in effect. (*Id.*). The Court reiterated that, by November 19, 2019, Mr. Harley must report to the Court, in writing, as to whether he had worked out a payment plan with the AVELA Parties or whether he still sought to withdraw. (*Id.*). The Court explained that if the AVELA Parties and Mr. Harley had not worked out a payment plan by November 19, 2019, then the AVELA Parties would need to have new counsel file a notice of appearance by that date. (*Id.*).

Yesterday, on November 19, 2019, Mr. Harley notified the Court that he had not worked out a payment plan with the AVELA Parties and that he continues to seek his withdrawal as attorney of record in this matter. (Dkt. #457). Accordingly, Mr. Harley's motion to withdraw as counsel in this case is GRANTED. Mr. Harley is hereby ORDERED to transmit this Order to the AVELA Parties.

Although the Court previously stated that the AVELA Parties would have to find new counsel by November 19, 2019, the Court will permit them to have new counsel enter a notice of appearance on the record by **December 2, 2019**. Any new counsel must be prepared to go to trial on any date selected by the Court. If counsel for the AVELA Parties does not file a notice of appearance on the record by December 2, 2019, then Leo Valencia will proceed to trial *pro se*, and the Court will enter default judgments as to the corporate entities that comprise the AVELA Parties.

SO ORDERED.

Dated: November 20, 2019  
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Failla".

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KATHERINE POLK FAILLA  
United States District Judge